IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

WP(C).No. 29759 of 2007(P)

PETITIONERS:

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1. JOSEPH SEBASTIAN, AGED 46 YEARS,
S/O.SEBASTIAN MUTTAPPILLIL HOUSE,
ELANJI, MUVATTUPUZHA.

2. ANCY JOSEPH, AGED 45 YEARS,
W/O.JOSEPH SEBASTIAN, MUTTAPPILLIL HOUSE,
ELANJI, MUVATTUPUZHA.

3. SEBASTIAN, AGED 75 YEARS,
S/O.PAULOSE, MUTTAPILLIL HOUSE,
ELANJI, MUVATTUPUZHA.

BY ADV. SRI.T.K.PANKAJASHAN PILLAI

RESPONDENT:

THE MUTHOLAPURAM SERVICE CO-OPERATIVE BANK, MUTHOLAPURAM, REPRESENTED BY ITS SECRETARY.

BY ADV. SHRI P.A. AUGUSTINE, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 29759 OF 2007 P

Dated this the 9th October, 2007

JUDGMENT

Petitioners have approached this Court seeking the following reliefs:

> *"a) Issue a mandamus or other appropriate writ or direction to the respondent not to collect anything from the petitioners as debt till the balance is determined at ten per cent simple interest from 10.2.1996 till the date of Ext.P4 Judgment and allowing to remit in ten instalments under the One Time Settlement Scheme ordered in Ext.P5.*
>
> *b) Issue a mandamus or other appropriate writ or direction, directing the respondent to determine the balance due as per One Time Settlement Scheme with ten per cent simple interest from 10.2.1996 till Ext.P4 Judgment."*

There is also a prayer for damages.

2. Heard the learned counsel appearing for the petitioner

and the learned standing counsel appearing on behalf of the respondent Bank. Petitioners had approached this Court earlier as evident from Exts.P2 and P4 Judgments. In Ext.P4 Judgment, the Joint Registrar was directed to hear the petitioners and the first respondent Bank and take a decision. The Joint Registrar was also directed to consider as to whether the petitioners have complied with the conditions in Ext.P2 Judgment, so as to claim the benefit of One Time Settle Scheme. The matter was considered and Ext.P5 is the order passed by the Joint Registrar dated 10.4.2006. It was found that the petitioners have not paid the amount, nor have they given the application. Thereafter, according to petitioners, they have preferred Ext.P6 and it was also sent by registered post. Ext.P6 (c) is produced as the Statement of Account paid by the petitioners. Learned counsel for the respondent Bank disputes Ext.P6 (c) Statement. However, he submits that the respondent Bank is prepared to give the benefit of Circular No.30/07. Learned counsel for the petitioners submits that the petitioners

are prepared to avail the benefit and they may be given some instalment facility to pay off the amount. Accordingly, the Writ petition is disposed of as follows:

The respondent Bank will serve a Statement on the petitioners within seven days from today indicating the exact amount remaining to be paid by the petitioners after giving them the benefit of Circular No.30/07. Upon receipt of the Statement by the petitioners, they shall make an application remitting ten per cent of the amount which shall also be indicated in the Statement to be given by the respondent Bank. If the petitioners make an application and remit ten per cent of the amount as indicated above within a period of ten days from the date of receipt of the Statement of Account from the respondent Bank, the petitioners will be permitted to pay off the amount remaining to be paid with due interest, in seven equal monthly instalments. The exact amount of instalments to be paid as aforesaid will also be indicated by the respondent in the Statement to be furnished by the Bank to the petitioners. The

first instalment shall be payable on or before 20.11.2007 and the remaining instalments on or before the 20th of every succeeding month. If the petitioners do not file the application and remit ten per cent of the amount as indicated in the Statement, or commit default of any of the instalments, they will lose the benefit of this Judgment and the respondent Bank will be free to proceed against the petitioners in accordance with law.

K. M. JOSEPH, JUDGE

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